

Order

Michigan Supreme Court
Lansing, Michigan

April 6, 2007

Clifford W. Taylor,
Chief Justice

132676

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 132676
COA: 262673
Barry CC: 02-100200-FH

TIMMY ALLEN ROSENBERG
Defendant-Appellant.

On order of the Court, the application for leave to appeal the November 21, 2006 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE in part the judgment of the Court of Appeals. The Court of Appeals erred in ruling that the defendant waived his objection to the imposition of a \$25,000 fine. Once the Court of Appeals vacated the defendant's original sentence and remanded for resentencing, the case was before the trial court in a presentence posture, allowing for objection to any part of the new sentence. *People v Ezell*, 466 Mich 869 (1994). We REMAND this case to the Court of Appeals for consideration of the defendant's fine in light of *People v Antolovich*, 207 Mich App 714 (1994). In addition, we direct the Court of Appeals to address the propriety of the sentencing court's remarks regarding the defendant's prior acquittals. If the Court of Appeals determines such remarks to have been inappropriate, it should determine whether resentencing is required. *People v Babcock*, 469 Mich 247 (2003).

We do not retain jurisdiction.



10403

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 6, 2007

Corbin R. Davis

Clerk